

**Introduced by Senator Simitian**

February 22, 2005

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An act to add Sections 6452.2 and 6471.1 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 801, as amended, Simitian. Sales and use taxes: prepayments: returns.

The Sales and Use Tax Law, which is administered by the State Board of Equalization, imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law generally requires a sales and use tax return, with a remittance of the taxes owed, to be filed with the board on a quarterly basis. That law provides that, under specified circumstances, the board may require any person whose sales and use tax liability exceeds a specified amount to prepay that tax liability.

This bill would ~~authorize~~ *require* a person that has only one retail location in this state that generates an estimated monthly tax liability of less than \$17,000 ~~to elect to file a sales and use tax return on a yearly basis and to make quarterly prepayments, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6452.2 is added to the Revenue and
- 2 Taxation Code, to read:

1 6452.2. (a) Notwithstanding Section 6452, a retailer ~~that~~  
2 ~~qualifies for the election authorized under~~ *described in* Section  
3 6471.1, shall, no later than one month following the close of each  
4 calendar year, file a return for that calendar year with the board  
5 in the form as prescribed by the board. Returns shall be  
6 authenticated in a form or pursuant to methods as may be  
7 prescribed by the board.

8 (b) For purposes of the sales tax, a return shall be filed by  
9 every retailer that is liable for the sales tax under this part. For  
10 purposes of the use tax, a return shall be filed by every retailer  
11 engaged in business in this state that has not paid the use tax due  
12 to a retailer required to collect the tax.

13 (c) Any retailer who fails or refuses to furnish any return  
14 required to be made, or who fails or refuses to furnish a  
15 supplemental return or other data required by the board, is guilty  
16 of a misdemeanor punishable as provided in Section 7153.

17 SEC. 2. Section 6471.1 is added to the Revenue and Taxation  
18 Code, to read:

19 6471.1. (a) Notwithstanding Section 6451, ~~an eligible retailer~~  
20 *a retailer described in subdivision (b)* that was engaged in the  
21 same business during the entire preceding calendar year, or a  
22 person who is a successor to a business that was in operation  
23 during the entire preceding calendar year, ~~may elect to~~ *shall*  
24 make quarterly prepayments of the taxes imposed by this part on  
25 or before the last day of the month following each calendar  
26 quarter. The quarterly prepayments shall be in an amount equal  
27 to the amount of gross receipts that were subject to the taxes  
28 imposed by this part for that same calendar quarter in the prior  
29 calendar year multiplied by the state and local tax rate in effect  
30 during the calendar quarter for which the prepayment is made.

31 (b) ~~A retailer is eligible to make the election authorized~~ *shall*  
32 *make quarterly prepayments as required* by subdivision (a) if  
33 that retailer meets both of the following conditions:

34 (1) The retailer's estimated measure of liability under this part  
35 averages not less than one thousand four hundred dollars  
36 (\$1,400) and not more than sixteen thousand nine hundred and  
37 ninety-nine dollars (\$16,999) per month.

38 (2) The retailer has only one business location in this state  
39 that is engaged in making retail sales of tangible personal  
40 property.

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